



ROBERT G. ATKINS
AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS & MEASURES

County of San Diego

LISA M. LEONDIS
ASSISTANT DIRECTOR

SAN MARCOS OFFICE
(760) 752-4700
FAX (760) 752-4703

DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES

5555 Overland Avenue, Suite 3101, San Diego, CA 92123-1256
Phone: (858) 694-2739 FAX (858) 495-5012

<http://www.sdcawm.org>

WEIGHTS & MEASURES
(858) 694-2778
FAX (858) 505-6484

TO: Certified Producer Applicants

FROM: Robert G. Atkins
Agricultural Commissioner/
Sealer of Weights and Measures

CERTIFIED PRODUCER APPLICATION PACKET OVERVIEW

This packet contains all the necessary forms needed to apply for a Certified Producer Certificate. Upon receipt of all forms and the application fee by our office, an inspector will review your application packet and determine if all required information has been submitted. **An inspection of your property will not be scheduled until all required paperwork and the correct certificate fee is received.** Please mail or submit completed forms and fees to:

County of San Diego
Department of Agriculture, Weights and Measures
Attn: Certified Producer Program
5555 Overland Avenue, Suite 3101
San Diego, CA 92123-1256

Once the application is reviewed, you will be contacted to schedule a property inspection (see Direct Marketing Fee Letter for fees). After the property inspection is conducted, your crop information will be entered onto your certificate at our office, which will take four to five working days. You will be contacted by telephone when your certificate is ready for your signature. If you are applying for a certificate for the first time, you must come into either our San Marcos office or San Diego office to sign your certificate. If you are renewing or amending your certificate, we can mail it to you for your signature, and then you will return it to us for our signature and embossing. We will then mail copies of the valid certificate to you. ***A Certified Producer's Certificate will not be issued until all inspection fees have been paid.**

NOTE re: FOOD SERVICES: All special events (including street fairs, festivals, and some Certified Farmers' Markets) that involve food service/sales to the public will require a separate permit from the Department of Environmental Health. For more information, please call (619) 338-2379.

Please contact the clerical staff, at (858) 694-2778 if you have any questions.



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DIRECT MARKETING FEES

Listed below are fees associated with obtaining a Certified Producers Certificate.

- * Certified Producer's Certificate Fee* \$35.00 (submitted with application)
- * Other County listings on Certificate** \$ 5.00 (submitted with application)
(to participate in markets outside of San Diego)
- * Inspection Hourly Rate (on site only) \$60.00 (at time of inspection)
- * Travel Charge by Zone (at time of inspection)
(Travel charge applied according to zip code of inspection site. See list below for zip codes)
- * Certificate Amendment or Addition \$5.00
(plus hourly inspection fee and travel charge by zone, will be charged at time of inspection.)

TRAVEL ZONE ZIP CODE DESTINATIONS

Zone 1 \$20.00	
91902	92114
91941	92115
91942	92116
91945	92117
91950	92118
91977	92119
92014	92120
92020	92121
92037	92122
92064	92123
92067	92124
92071	92126
92075	92127
92093	92128
92101	92129
92102	92130
92103	92131
92104	92133
92105	92134
92106	92135
92107	92136
92108	92139
92109	92140
92110	92145
92111	92155
92113	92161

Zone 2 \$40.00
91901
91910
91911
91913
91914
91915
91917
91932
91935
91978
92007
92008
92009
92019
92020
92021
92024
92025
92026
92027
92029
92040
92056
92065
92069
92083
92084
92154
92173

Zone 3 \$60.00
91906
91916
91931
91948
91962
91963
91980
92003
92028
92036 West *
92054
92055
92057
92059
92060
92061
92070
92082

Zone 4 \$80.00
91905
91934
92004
92055
92066
92086
92259
92036 East **
92536
92672

*92036 West

Instructions:

West of Sunrise Hwy
from Zip Code
Boundary 91948 to
Hwy 79, West of Hwy
79 to Hwy 78, North
of Hwy 78 to S-2, and
West of S-2 until Zip
Code Boundary
92086.

** 92036 East

Instructions:

East
of Sunrise Hwy from
Zip Code Boundary
91948 to Hwy 79,
East of Hwy 79 to
Hwy 78, South of
Hwy 78 to S-2, and
East of Hwy S-2 to
Zip Code Boundary
92086.



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CERTIFIED PRODUCER CERTIFICATE APPLICATION

☐ New Application ☐ Additions Application ☐ Annual Certificate Renewal

NAME:	
DBA:	
ADDRESS:	
CITY AND ZIP:	
PHONE: (RES.)	PHONE: (BUS.)

FOR OFFICIAL USE ONLY	
CERTIFICATE NUMBER:	
COUNTY FEE: \$	PAID WITH:
DATE RECEIVED:	
ISSUING DATE:	
EXPIRATION DATE:	
AMENDED DATE:	

CERTIFIED PRODUCER INFORMATION:

Check if you have a ☐ Farming Partnership
☐ Sharecropping Agreement
☐ Similar Contractual Agreement with another person

Do you sell for any other Certified Producer? ☐ No ☐ Yes:

NAME: _____ NAME: _____

Does any other Certified Producer sell for you? ☐ No ☐ Yes:

NAME: _____ NAME: _____

Do you: ☐ Own growing property? or ☐ Lease growing property?

Organic? Check if yes ☐ Nursery? Check if yes ☐

Production Sites, please provide full address including zip code and parcel ID number (APN).

1.	APN	2.	APN
3.	APN	4.	APN
5.	APN	6.	APN
STORAGE LOCATION (A)	MONTHS IN STORAGE	STORAGE LOCATION (B)	MONTHS IN STORAGE

EXAMPLE OF INFORMATION NEEDED FOR THE COMMODITIES THAT YOU GROW
 USE SEPARATE SHEET FOR EACH LOCATION

Location	Commodity	Variety	Amount	Unit of Measure	Estimated Production	Unit of Measure	Harvest Season (Month to Month)
1.	Apple	Granny Smith	6	Trees	100	Lbs	Aug-Sept
1.	Tomato-Cherry	Red	6	Acres	300	Lbs	Apr-Aug
2.	Begonia	Angel wing -white	13	Plants	13	Pots	Jan-Dec
2.	Dianthus	Tiny Rubies -red	100	Sq ft	200	Bunchs	Apr-Oct

OTHER COUNTIES IN WHICH YOU PLAN TO SELL IN:

--	--	--	--	--

I hereby agree to comply with the requirements of Title 3, Chapter 1, Subchapter 4, Article 6.5 of the California Code of Regulations pertaining to Direct Marketing.

Signature Required

Date

USE SEPARATE SHEET FOR EACH LOCATION



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GRANTING OR ACCEPTING AUTHORITY TO SELL INFORMATION

You may have expressed an interest in either granting authorization to another Certified Producer to sell your product at a farmers' market or to accepting authorization from another to sell his/her product. The California Code of Regulations (Title 3, Section 1392.4 [g][6]) requires that a producer submit written authority to do so, prior to certification, to the Agricultural Commissioner.

State regulations, effective January 2000, require that the name of the certified producer selling for another, or having authorized another to sell, must appear on each certificate of the parties involved in the agreement. **Both certificates must be amended simultaneously to be effective and available for use at a certified farmers' market.** Please coordinate submitting of forms with the producer with whom you have made the agreement to avoid delays in issuing the certificates. **We will not issue any new or amended certificate with Authorized Seller information until written authorization is received from both parties.**

The grant or acceptance of Authorization to sell is valid for one year from the date declared.

We have enclosed the appropriate form(s) to facilitate the granting or acceptance of Authorization to Sell. The agreement(s) must be completed, signed, and returned to this office to avoid any delay in scheduling your property inspection and/or issuance/amending your Certified Producer Certificate.

If the producer you are going to sell for, or are granting permission to sell for you, is registered in another county, you must provide a photocopy of his or her certificate.

If you have questions, please call (858) 694-2778 and we will be pleased to assist you.



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CERTIFIED PRODUCER **GRANT OF** **AUTHORIZATION TO ANOTHER CERTIFIED PRODUCER** **TO SELL COMMODITIES**

Completion of this form required before Certified Producer Certificate can be issued.

DATE DECLARED: _____ (Valid for one (1) year from this date.)

I, _____, am a Certified Producer registered in
 (name on certificate)

the County of _____ (Certified Producer Certificate No. _____).

DBA on Certificate if different from name above: _____

(e.g.: XYZ Farms)

By this document, I authorize another Certified Producer to sell fruits, nuts, vegetables, honey, and/or eggs of my own production at a Certified Farmers' Market (CFM). I understand that the authorized seller must be provided with, and have in his/her possession at time of sale at a CFM, an embossed photocopy of my Certified Producer Certificate.

I do, hereby, grant authorization to _____, a Certified Producer
 (name on certificate)

registered in the County of _____ (Certified Producer Certificate No. _____)
 to sell my products.

DBA on Certificate if different from name (authorized) above: _____

I understand that permission to sell on behalf of another Certified Producer is contingent upon permissive rules established by the manager of each CFM at which the authorized seller participates. I further understand that I am limited, by State regulation, to authorize a maximum of two Certified Producers to sell agricultural products of my own production at CFM's for the 12-month period following the date of issuance or amendment of my certificate with the name of the authorized seller recorded thereon. I may not substitute a different Certified Producer as an authorized seller in place of the above named authorized seller until the end of that one-year period.

This agreement/authorization must be signed by the AUTHORIZING Certified Producer, and each member of a Partnership, Sharecropping or Lease Agreement, or similar contractual entity which, collectively, holds the CPC.

Print Name: _____ Signature: _____

Print Name: _____ Signature: _____



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Print Name: _____ Signature: _____

CERTIFIED PRODUCER **ACKNOWLEDGEMENT AND ACCEPTANCE OF** **AUTHORIZATION TO SELL COMMODITIES** **FOR ANOTHER CERTIFIED PRODUCER**

Completion of this form required before Certified Producer Certificate can be issued.

DATE DECLARED: _____ (Valid for one (1) year from this date.)

I, _____, am a Certified Producer registered in
 (name on certificate)

the County of _____ (Certified Producer Certificate No. _____).

DBA on Certificate if different from name above: _____
 (e.g.: XYZ Farms)

By this document, I acknowledge that I have been authorized by another Certified Producer to sell fruits, nuts, vegetables, honey, and/or eggs of his/her own production at a Certified Farmers' Market (CFM). I understand that I, or my employee or family member, must be provided with, and have in my/his/her possession at time of sale at a CFM, an embossed photocopy of the AUTHORIZER'S Certified Producer Certificate.

I do, hereby, accept authorization from _____, a Certified Producer
 (name on certificate)

registered in the County of _____ (Certified Producer Certificate No. _____), to sell his/her product.

DBA on Certificate if different from name (authorized) above: _____

I understand that permission to sell on behalf of another Certified Producer is contingent upon permissive rules established by the manager of each CFM at which I, as the authorized seller, participate. I further understand that I am limited, by State regulation, to be authorized by a maximum of two Certified Producers to sell agricultural products of their own production at CFM's for the 12-month period following the date of issuance or amendment of my certificate on which the name of the authorizer(s) is(are) recorded. I may not substitute a different Certified Producer as an authorizer in place of the above named authorizer until the end of that one-year period.

This acknowledgement must be signed by the AUTHORIZED Certified Producer, and each member of a Partnership, Sharecropping or Lease Agreement, or similar contractual entity which, collectively, holds the CPC.

Print Name: _____ Signature: _____

Print Name: _____ Signature: _____

Print Name: _____ Signature: _____



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EMPLOYMENT AGREEMENT

I _____, a Certified Producer under Title 3, Article 6.5 of the California Code of Regulations, do currently employ _____ as authorized under Section 1392.2 to sell certifiable agricultural products of my own production for me at a Certified Farmers' Market. I attest that the above named employee is a legal employee and that all compensation to this employee is based on a fixed salary and not on a commission or on a resale basis and agree that I will provide documentation for verification of this employment upon request. This agreement will be available for review at any operating certified farmers' market.

I will immediately notify the endorsing Agricultural Commissioner/Sealer upon termination or change in status of my employee.

I am aware that any violation of the Direct Marketing Regulations (Title 3, Article 6.5) by me or by my employees may result in a civil administrative penalty and/or revocation of my Certified Producer's Certificate by the Issuing County and/or my privilege to participate in a Certified Farmer's Market.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this _____ of _____, _____ in _____, CA.
 (Day) (Month) (Year) (County)

Renewal of this employment agreement is required upon expiration of Certified Producer's Certificate.

 Certified Producer

Certificate No. _____

Date of Expiration: _____



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REQUIREMENTS FOR FARM LEASES

Every person or entity who enters into a farm lease with another person(s) or entity and who applies for a certified producer's certificate under such agreement shall provide to the County of San Diego Agricultural Commissioner, **at the time of application**, with a copy of the current written lease agreement which shall contain the following:

1. A clear and concise accurate description of the lease property. The description shall include the present use of the property, the dimensions of the leased property, and the location, including the assessor's property number (APN)
2. The cost of the lease
3. The beginning and ending dates of the lease.
4. The date of the agreement and the signatures of all parties involved.
5. A guarantee of the signatures on the agreement by a notary public executed at the time of signing by all parties. The notarized signatures on the agreement of all executing the agreement.

The lease must state:

6. Person applying for the certificate shall assume all financial risks associated with producing agricultural products.
7. Lessee shall perform agricultural production upon the land.
8. Enter into the agreement prior to planting of annual and biannual crops.
9. Enter into the agreement prior to or within 30 days after preparing perennial field crops for the subsequent cropping pattern.
10. Enter into the agreement prior to bloom of the tree and vine crops.

Any change in the terms of this lease agreement shall invalidate a certified producer's certificate issued under such terms. Any such change shall be reported immediately and all embossed copies issued shall be surrendered to the Agricultural Commissioner.

Notwithstanding the above, an enforcing officer representing the Department of Agriculture, Weights and Measures may request such additional documentation as is reasonably necessary to show that the conditions of the article are being met.

Article 6.5. Direct Marketing

§1392. Intent

The intent of this article is to facilitate the sale of agricultural products from producers and certified producers within the state directly to consumers while maintaining sufficient regulatory control to ensure that the agricultural products are of acceptable quality and that the selling activities are conducted honestly and fairly.

NOTE: Authority cited: Sections 14, 407, 42682, 42684, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103, and 58104, Food and Agricultural Code.

HISTORY

1. New article 6.5 (~~sections 1392-1392.11~~) filed 3-31-77; effective thirtieth day thereafter (Register 77, No. 14).
2. Amendment filed 3-30-79; effective thirtieth day thereafter (Register 79, No. 13).
3. Amendment of section filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.1. Direct Marketing Authorized.

(a) Notwithstanding other provisions of this Group, this article authorizes producers or certified producers of certified or noncertifiable agricultural products to sell their products, as defined in this article, directly to consumers, subject to the provisions of this article.

(b) A certified producer may sell agricultural products, which he/she has produced, at a certified farmers' market.

(c) A producer may only sell noncertifiable agricultural products which he/she has produced, at a certified farmers' market, or agricultural products which he/she has produced, at or near the point of production.

(d) Fresh fruits, nuts, and vegetables may be sold directly to consumers exempt from size, standard pack, container, and labeling requirements only by:

(1) The certified producer of the agricultural products at a stand at a certified farmers' market; or

(2) The producer of the agricultural products at a retail stand located at or near the point of production.

(e) All fresh fruits, nuts, and vegetables sold pursuant to this article shall comply with the regulations of the California Code of Regulations, title 3, subchapter 4, beginning with section 1359, governing maturity and quality.

(f) Excluding fresh fruits, nuts, and vegetables, agricultural products, as defined in this article, which are sold or offered for sale at a certified farmers' market or at or near the point of production, must comply with all applicable laws and regulations pertaining to quality and labeling.

(g) This article does not supersede the provisions of federal marketing orders, state marketing orders, state laws and regulations enforced by any state agency, or any other local health and safety laws, regulations, or ordinances.

NOTE: Authority cited: Sections 407, 42681, 42682, 42684, 47000, 47001 and 47003, Food and Agricultural Code. Reference: Sections 42941, 47002 and 47003, Food and Agricultural Code.

HISTORY

1. Amendment and numbering of undesignated introductory paragraph as subsection (a), repealer of remaining paragraphs with new subsections (b)-(e) and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).
2. Amendment of subsection (d) and Note filed 2-4-2002 as an emergency; operative 2-4-2002 (Register 2002, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2002 or emergency language will be repealed by operation of law on the following day.

§1392.2. Definitions.

Unless the context otherwise requires, the following definitions govern the construction of the language in this article.

(a) Certified Farmers' Market. A location approved by the county agricultural commissioner of that county where agricultural products are sold by producers or certified producers directly to consumers. A certified farmers' market may be operated by one or more certified producers, by a nonprofit organization, or by a local government agency.

(b) Certified Farmers' Market Certificate. A certificate issued by the county agricultural commissioner authorizing the location where agricultural products are sold by the producers directly to consumers. The certificate is valid only when bearing the original signatures of the county agricultural commissioner and the authorized representative of the certified farmers' market.

(c) Land Which the Producer or Certified Producer Controls. Land that the producer or certified producer farms and owns, rents, leases, or sharecrops.

(d) Producer. A person or separate entity that produces agricultural products by practice of the agricultural arts upon land which the person or separate entity controls. Producer may be, for the purposes of this article, a person, partnership, corporation or any other entity.

(e) Certified Producer. A producer authorized by the county agricultural commissioner to sell certified agricultural products, produced by practice of the agricultural arts upon land which the certified producer controls, directly to consumers at a certified farmers' market.

(f) Certified Producer's Certificate. A certificate issued by the county agricultural commissioner in the county of production authorizing the transportation and sale of certified products pursuant to this article.

(g) Consumer. A person who purchases and receives agricultural products at or near the point of production or at a certified farmers' market. It excludes a person who purchases fresh fruits, nuts, and vegetables for commercial resale unless such products comply with all applicable size, standard pack, containers, and labeling requirements.

(h) Direct Marketing. The sale:

(1) At a certified farmers' market of agricultural products by a certified producer to a consumer; or

Title 3. California Code of Regulations

(2) At a certified farmers' market of noncertifiable agricultural products by a producer to a consumer; or

(3) At or near the point of production of agricultural products by a producer to a consumer.

(i) Immediate Family. Parents, children, grandparents, or grandchildren of the certified producer or a family member regularly residing in the certified producer's household.

(j) Employee. Any person employed by a certified producer at a regular salary or wage, on either a full or part time basis. It does not include any person who is reselling or whose compensation is primarily based on a commission of sales.

Notwithstanding the above, an employee of an agricultural cooperative organized under the laws of California may sell the agricultural products of one of its members in accordance with the provisions of this article.

(k) Agricultural Products. Agricultural products include all certified and noncertifiable agricultural products as defined in section 1392.2(1) and section 1392.2(m).

(l) Certified Agricultural Products. Agricultural products, which are certified under the jurisdiction of the county agricultural commissioner relative to inspection and verification of compliance with the provisions of this article, include fresh fruits, nuts, vegetables, shell eggs, honey, flowers, and nursery stock

(m) Noncertifiable Agricultural Products. Noncertifiable agricultural products include all certified agricultural products that have been processed, those products other than certified agricultural products noted in (l) above from any tree, vine or plant and their flowers (including processed products), livestock (including rabbits) and livestock products, and fish and shellfish produced under controlled conditions in waters or ponds located in California.

(n) Nonprofit Organization. An organization which qualifies for nonprofit status for California income tax purposes.

(o) Market Manager. A person or persons empowered to implement the rules, regulations, policies, and directives of the governing body of a certified farmers' market.

(p) Market Rules. A set of written rules or regulations approved by each certified farmers' market. The rules and regulations may be more stringent than established state regulations, provided they do not violate or conflict with any state law or regulation governing their activities.

(q) Notice and Hearing Process. A process initiated at the discretion of a county agricultural commissioner after alleged violation(s) of the provisions of this article has occurred.

(r) Agricultural Production and Practice of the Agricultural Arts. To be involved in and make decisions regarding all phases of producing an agricultural product, which includes, but is not limited to, planting, growing, fertilizing, irrigating, cultivating, pest control, and harvesting.

(s) Partnership. A partnership is a separate entity distinct from its individual members. As a separate entity, a partnership must obtain a certified producer's certificate to

market, directly to consumers, its agricultural products, which shall be produced by practice of the agricultural arts upon land that the partnership, as a separate entity, exclusively controls.

NOTE: Authority cited: Sections 407, 42682, 47000, 47001, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Sections 42941, 47000, 47001 and 47003, Food and Agricultural Code.

HISTORY

1. Amendment of subsection (a) filed 3-30-79; effective thirtieth day thereafter (Register 79, No. 13).
2. Amendment of undesignated paragraph and subsection (a), amendment and renumbering of subsections (k) to (c), (b) to (d), (c) to (e), (i) to (f), (d) to (g), (e) to (h), (g) to (i), (f) to (j), (h) to (m) and (j) to (n), with new subsections (b), (k), (l), (o), (p) and (q) filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).
3. New subsection (r) and amendment of Note filed 12-9-99; operative 1-8-2000 (Register 99, No. 50).
4. Amendment of subsections (d) and (f), new subsection (s) and amendment of Note filed 2-4-2002 as an emergency; operative 2-4-2002 (Register 2002, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2002 or emergency language will be repealed by operation of law on the following day.

§1392.3. Where Direct Marketing Permitted.

HISTORY

1. Repealer filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.4. Conditions of Direct Marketing

(a) Except as provided in subsection (f) below, producers or certified producers may sell or offer to sell only agricultural products which they have produced to consumers at a certified farmers' market. The certified producer's immediate family or employee(s) may also act for and sell the certified producer's agricultural products. No certifiable agricultural products may be sold at a certified farmers' market unless such products are listed on the certified producer's certificate.

(b) All agricultural products, when sold or offered for sale at a certified farmers' market or at or near the point of production, shall comply with all applicable requirements of Article 1 (beginning with Section 113700), 2, 3, 4, 5, 6, 7, 11, 13, and 15 of Chapter 4 (California Uniform Retail Food Facilities Law), Division 104, Part 7, of the California Health and Safety Code, and Chapters 1 (beginning with Section 109875), 2, 4, 5, and 8 (California Sherman Food, Drug, and Cosmetic Law), and Division 104, Part 5, of the California Health and Safety Code.

(c) Only agricultural products may be sold or offered for sale at a certified farmers' market. The sale of nonagricultural products shall not be permitted in the area designated as a certified farmers' market.

(d) The certified producer's embossed photocopy certificate shall accompany the certified agricultural products during transportation and shall be conspicuously posted at the point of sale.

(e) When any agricultural products are sold by weight, the type of scale used shall be approved by the Department of Food and Agriculture, and shall be tested and sealed for use by the county sealer-director of weights and measures.

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(f) A certified farmers' market may allow, or prohibit, a certified producer or his/her immediate family member or employee to sell at that market certified agricultural products on behalf of a maximum of two other certified producers including, but not limited to, separate entities, such as partnerships, in which the certified producer has an interest as an individual member. If such practice is allowed, the following provisions shall be met by the certified producer and shall be specified in the certified farmers' market's rules and regulations:

(1) A certified producer shall not represent, nor be represented by more than two other certified producers in a 12-month period.

(2) Each certified producer's certified agricultural products to be sold or offered for sale shall be separated and identifiable by each certified producer's valid certificate at the point of sale.

(3) The name of the certified producer for whom another certified producer is selling shall appear on the certificate of the certified producer that is conducting sales at a certified farmers' market.

(4) The name of the certified producer who is selling the products of another certified producer shall appear on the certificate of the person or entity for whom the certified producer is selling.

(5) The certified producer selling for another certified producer shall be selling or offering for sale, at the same certified farmers' market on the same day, certified agricultural products which the certified producer conducting the sales has produced and which are in greater volume than the volume offered for sale for the other certified producer. For purposes of this section, the volume shall be measured by the weight or dollar value of the products at the time and point of sale. This volume requirement shall apply only at the beginning of each day of sale.

(6) The producer applying for certification shall obtain and submit to the agricultural commissioner, prior to certification, written authority from said other certified producers to sell on their behalf.

(7) Commission sales and buying and selling between certified producers is prohibited. Any payment made for the service of one certified producer selling for another certified producer shall not be related to the volume or value of the products sold.

(8) The operator of a certified farmers' market may prohibit or otherwise establish rules regarding sales permitted under this subsection that are more restrictive, provided that such prohibition or restriction is contained in the market's written rules and regulations.

(9) A certified producer who sells certified agricultural products on behalf of another certified producer or whose products are sold by another certified producer at a certified farmers' market shall keep for a period of not less than three years, the following records relating to such products:

(i) Date of transfer to seller and accurate amount of products, by weight, dry measure, or count, transferred. Each separate product and amount shall be recorded according to variety.

(ii) Date of sale and accurate amount of products, by weight, dry measure, or count, sold. Each separate product and amount shall be recorded according to variety.

(iii) Names of both certified producers involved.

(10) A certified producer subject to this subdivision shall produce, for inspection, records required by this section upon demand of a representative of the department or county agricultural commissioner.

(g) The provisions of this section, and any amendments thereof, shall apply to all new certified producer's certificates, including renewals, upon filing with the Secretary of State, unless another effective date has been designated by the Office of Administrative Law. Certified producer's certificates already issued shall conform to the requirements of this section, and any amendments, within twelve (12) months of the certificate issue date.

NOTE: Authority cited: Sections 407, 42682, 47000, 47001, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Sections 42941, 47000, 47001, 47003 and 47004, Food and Agricultural Code.

HISTORY

1. Amendment of subsection (a) filed 3-30-79; effective thirtieth day thereafter (Register 79, No. 13).
2. Amendment of subsection (a) filed 4-4-79; effective thirtieth day thereafter (Register 79, No. 13).
3. Amendment of subsection (a) filed 2-3-82; effective thirtieth day thereafter (Register 82, No. 6).
4. Amendment of subsection (a), amendment and renumbering of subsections (b) to (e), (c) to (f), with new subsections (b), (c), (d) and (g) filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).
5. Amendment of subsections (g)-(g)(3) and amendment of Note filed 1-30-97; operative 3-1-97 (Register 97, No. 5).
6. Amendment of subsections (a) and (g), new subsections (g)(1), (g)(3) and (g)(4), subsection renumbering, amendment of subsections (g)(7)-(10) and amendment of Note filed 12-9-99; operative 1-8-2000 (Register 99, No. 50).
7. Amendment of section and Note filed 5-4-2001 as an emergency; operative 5-4-2001 (Register 2001, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-4-2001 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to 5-4-2001 emergency action by operation of Government Code section 11346.1(f) (Register 2001, No. 48).
9. Amendment of section and Note filed 11-28-2001; operative 12-28-2001 (Register 2001, No. 48).
10. Amendment of subsections (f) and (f)(3)-(5), new subsection (g) and amendment of Note filed 2-4-2002 as an emergency; operative 2-4-2002 (Register 2002, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2002 or emergency language will be repealed by operation of law on the following day.

§1392.5. Producer Certification Procedures.

(a) A producer may become certified by applying to the agricultural commissioner of the county where the producer's farm is located. A producer who farms in more than one county must be certified in each county where he/she produces

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certifiable agricultural products for sale at a certified farmers' market.

(b) The certificate and application shall be on a form authorized by the director and include an agreement signed by the applicant that the applicant will comply with the terms of this article.

(c) Any producer shall provide, upon request by an enforcing officer or market manager, certificates, documentation, information, or any other identification that may be reasonably required to show that the conditions of this article are being met.

(d) The county agricultural commissioner shall issue only one original certificate, which bears the signatures of the agricultural commissioner and the certified producer, and the name of each destination county where the certified producer will be selling. The original certificate shall be maintained in the issuing county agricultural commissioner's office.

(e) The county agricultural commissioner shall issue an embossed photocopy of the original certificate to the certified producer, which will serve as the valid certified producer's certificate. Certified producers who intend to sell at more than one certified farmers' market must obtain the necessary number of embossed photocopies of the original certificate to comply with the provisions of this article.

(f) The issuing county agricultural commissioner shall send a photocopy of the original certificate to each destination county listed on the certified producer's certificate.

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Amendment of heading, amendment and numbering of first three undesignated paragraphs as subsections (a)-(c), with repealer of remaining undesignated paragraphs, and new subsections (d)-(f) and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.6. Certification Requirements of a Certified

Farmers' Market

(a) A county agricultural commissioner may issue a certified farmers' market certificate, which specifies a location where agricultural products may be sold or offered for sale. The certificate shall indicate that the marketplace is a certified farmers' market.

(b) Application shall be made by the proposed operator(s) of a certified farmers' market and shall include a signed agreement by the operator(s) to comply with the terms of this article. The application and certificate shall be on a form authorized by the director.

(c) The county agricultural commissioner shall not issue a certificate for a certified farmers' market when notified that a permit for the operation of such market has been denied by an agency of local government.

(d) The governing body of a certified farmers' market operation for or by more than one certified producer shall

promulgate a set of market rules and regulations which specify procedural criteria pertaining to:

(1) Admission of any producer to the market(s).
(2) Admission of any agricultural products to the market(s).

(3) Removal of any producer from the market(s).

(4) Allowance of a certified producer selling on behalf of another certified producer as provided in Section 1392.4.

(e) The governing body of a certified farmers' market has authority to establish specific rules and regulations for any market(s) under its control which regulate the:

(1) Type and number of producers and certified producers admitted.

(2) Type and number of certified and noncertifiable products admitted.

(3) Methods of selling certified and noncertifiable agricultural products.

(f) The certified farmers' market's rules and regulations shall contain a clause, which states that the governing body and its designated agents shall implement and enforce all rules and regulations pertaining to the operation of a certified farmers' market in a fair and equitable manner.

(g) A current copy of the certified farmers' market's rules and regulations shall be sent to the Department of Food and Agriculture, Fruit and Vegetable Quality Control--Standardization, and to the agricultural commissioner of the county in which the certified farmers' market is located.

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 47000, 47002 and 47003, Food and Agricultural Code. Reference: Section 42941, Food and Agricultural Code.

HISTORY

1. Amendment of heading, repealer of undesignated 1st, 3rd and 4th paragraphs, amendment and numbering of undesignated second paragraph as subsections (b) and (c), and new subsections (a), (d)-(g) and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).
2. New subsection (d)(4) and amendment of Note filed 1-30-97; operative 3-1-97 (Register 97, No. 5).

§1392.7. Certificates Issued.

(a) A county agricultural commissioner shall issue a certified producer's certificate upon review of application and determination that the applicant meets the requirements of a certified producer. When issuing the certified producer's certificate, the county agricultural commissioner should:

(1) Consider seasonal production and varieties of the products when listing the products.

(2) Insofar as practicable, include an on-site inspection of the land controlled by the producer.

(b) A county agricultural commissioner shall issue a certified farmers' market certificate upon review of application and determination that the applicant meets the requirements to operate a certified farmers' market.

(c) A certified producer's certificate shall be valid for not more than 12 months from the date of issue.

(d) A certified farmers' market certificate shall be valid for 12 months from the date of issue.

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NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Amendment of subsection (a), amendment and renumbering of subsection (b) to (c), and new subsections (b) and (d), and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.8. Fees

The county agricultural commissioner may charge a fee for issuing, modifying, verifying, or renewing any certificate, including embossed photocopies, as set by the board of supervisors of that county.

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Amendment of heading and section with new NOTE filed 7- 26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.8.1. Certified Farmers' Market Fees

(1) Every operator of every certified farmers' market shall remit to the Department of Food and Agriculture sixty cents (\$0.60) for each certified producer represented by each certified producer's certificate and other agricultural producers participating in the market(s) on each market day for the entire quarter. The fee shall be submitted within 30 days after the end of each quarter with a form containing the following information:

- (a) Name of market sponsor
 - (b) Market certificate number
 - (c) Name and address of the market
 - (d) Name of market contact person.
 - (e) Market day(s) and hours of operation
 - (f) Telephone number and fax number through which the market representative can be reached during normal work hours.
 - (g) Quarterly period for which the report is submitted.
 - (h) Total number of certified producer certificates and other agricultural producers participating on each market day of the entire quarter.
 - (i) Amount of fees submitted
 - (j) Signature of authorized market representative.
- (2) Any operator who fails to pay the required fee within thirty (30) days after the end of the quarter in which it is due shall pay a late monthly interest penalty of one and one half (1 1/2) percent monthly amount on the unpaid balance.

NOTE: Authority cited: Sections 407, 42682, 47000, 47001 and 47021, Food and Agricultural Code. Reference: Sections 42941, 47002, 47003, 47004, 47004.1 and 47021, Food and Agricultural Code.

HISTORY

1. New section filed 12-30-99 as an emergency; operative 1-1-2000 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 5-1-2000 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 12-30-99 order transmitted to OAL 4-19-2000 and filed 5-17-2000 (Register 2000, No. 20).

§1392.9. Direct Marketing, Compliance Requirements for the Operator of a Certified Farmers' Market.

(a) The operator of a certified farmers' market shall ensure that each person participating in the sale of agricultural products in the area designated as a certified farmers' market:

- (1) Is a producer, certified producer, or their immediate family member or employee.
- (2) Sells only certified and noncertifiable agricultural products.
- (3) Has in their possession, in the case of certifiable agricultural products, a valid certificate that is posted at the point of sale.

(4) Has each certifiable agricultural product in their possession listed on the certified producer's certificate.

(5) Who sells noncertifiable agricultural products sells only those products which were produced in accordance with the certified farmers' market's rules and regulations.

(6) Who represents another certified producer under an additional certificate, separates and identifies the items listed on each respective certificate, and that the name of the certified producer they are selling for appears on both of the certificates.

(b) The operator of a certified farmers' market shall obtain from each person participating in the sale of agricultural products in the area designated as a certified farmers' market an itemized list of all products sold at the certified farmers' market each market day.

(1) The product list shall state the name of the certified producer, the identity of each product sold as it appears on the certified producer's certificate, and the quantity of each product sold at the market.

(2) The market operator shall keep the list of products sold for a period of not less than eighteen months.

NOTE: Authority cited: Sections 407, 42682, 47000, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Section 42941, Food and Agricultural Code.

HISTORY

1. New section filed 12-9-99; operative 1-8-2000 (Register 99, No. 50). For prior history, see Register 91, No. 47

§1392.9.1. Direct Marketing. Requirements for Partnerships, Sharecropping Agreements, and Similar Contractual Agreements.

(a) Every person or entity that enters into a partnership as defined in Section 1392.2(s), sharecropping, or similar contractual agreement with another person(s) or entity and that applies for a certified producer's certificate under such agreement shall provide the issuing agricultural commissioner, at the time of application, with proof of partnership as defined

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in the United States and California Tax Codes, or the Partnership's Federal Tax Identification Number and a copy of their current written agreement which shall contain the following:

(1) A clear, concise and accurate description of the property to be farmed. The description shall include the present use of the property, the dimensions, and the location of the property; and

(2) Partners shall demonstrate equitable risk by submitting a description of each party's financial and material resource input, which shall include the degree of involvement each party has in agricultural production; and

(3) The date of the agreement and the signatures of all parties involved; and

(4) A guarantee of the signatures on the agreement by a notary public executed at the time of signing by all parties. The notarized signatures on the agreement of all parties executing the agreement.

(5) A statement of verification that the property or properties to be farmed by the partnership or producers cooperating under a similar contractual agreement are under the exclusive control of the partnership as a separate entity from its individual members.

(b) Notwithstanding the above, an enforcing officer representing the Department or agricultural commissioner may request such additional documentation as is reasonably necessary to show that the conditions of this article are being met.

(c) To qualify for a certified producer's certificate, all parties listed on the certificate shall:

(1) Have entered into the agreement prior to planting of annual and biannual crops; and

(2) Have entered into the agreement prior to or within 30 days after preparing perennial field crops for the subsequent cropping pattern (e.g., prior to the fern stage of asparagus or prior to cut back of artichokes); and

(3) Have entered into the agreement prior to bloom of tree and vine crops; and

(4) Be engaged in agricultural production upon the land which is the subject of the agreement.

(d) Any change in the terms of this agreement shall invalidate a certified producer's certificate issued under such terms. Any such change shall be reported immediately and all embossed copies of certificates issued to the partnership shall be surrendered to the issuing agricultural commissioner.

NOTE: Authority cited: Sections 407, 42682, 47000, 47001, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Sections 42941, 47000, 47001 and 47003, Food and Agricultural Code.

HISTORY

1. New section filed 12-9-99; operative 1-8-2000 (Register 99, No. 50).
2. Amendment of subsection (a), new subsection (a)(5) and amendment of Note filed 2-4-2002 as an emergency; operative 2-4-2002 (Register 2002, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2002 or emergency language will be repealed by operation of law on the following day.

§1392.9.2. Direct Marketing. Requirements for Farm

Leases.

(a) Every person or entity who enters into a farm lease with another person(s) or entity and who applies for a certified producer's certificate under such agreement shall provide the issuing agricultural commissioner, at the time of application, with a copy of the current written lease agreement which shall contain the following:

(1) A clear and concise accurate description of the leased property. The description shall include the present use of the property, the dimensions of the leased property and the location; and

(2) The purchase price (cost) of the lease; and

(3) The date of the agreement and the signatures of all parties involved; and

(4) A guarantee of the signatures on the agreement by a notary public executed at the time of signing by all parties. The notarized signatures on the agreement of all executing the agreement.

(b) Notwithstanding the above, an enforcing officer representing the Department or agricultural commissioner may request such additional documentation as is reasonably necessary to show that the conditions of this article are being met.

(c) To qualify for a certified producer's certificate, the person applying for the certificate shall:

(1) Assume all financial risks associated with producing agricultural products; and

(2) Enter into the agreement prior to planting of annual and biannual crops; and

(3) Enter into the agreement prior to or within 30 days after preparing perennial field crops for the subsequent cropping pattern (e.g., prior to the fern stage of asparagus or prior to cut back of artichokes), and

(4) Enter into the agreement prior to bloom of tree and vine crops, and

(5) Perform agricultural production upon the land which is the subject of the agreement.

(d) Any change in the terms of this agreement shall invalidate a certified producer's certificate issued under such terms. Any such change shall be reported immediately and all embossed copies of certificates issued to the partnership shall be surrendered to the issuing agricultural commissioner.

NOTE: Authority cited: Sections 407, 42682, 47000, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Section 42941, Food and Agricultural Code.

HISTORY

1. New section filed 12-9-99; operative 1-8-2000 (Register 99, No. 50)

§1392.10. Penalties.

(a) Any county agricultural commissioner may, at any time, initiate a notice and hearing process to determine whether a violation of these provisions has occurred. The hearing process may review the actions of:

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- (1) The certificate holder; or
- (2) A family member, employee, or another certified producer acting on behalf of the certificate holder; or
- (3) Any other person whose actions may have resulted in the violation.

(b) The notice of hearing shall be on a form approved by the director and contain:

- (1) Specific provisions violated; and
- (2) A warning to cease such violations; and
- (3) A hearing date to determine if the certificate(s) involved in the violations or participation privileges should be revoked.

(c) The county agricultural commissioner, upon determination that a violation has been made in accordance with (a), above, may:

- (1) Suspend and/or refuse, for a period of up to 18 months, to issue a certificate to the violator; and/or
- (2) Suspend, for a period of up to 18 months, the privilege of participation, under the provisions of this article, of any person whose action resulted in the violation

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Repealer with new subsections (a)-(c) and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.11. Appeals.

Any person may appeal to the director for a hearing if aggrieved by any one of the following actions or decisions:

- (a) Denial of any certificate.
- (b) Suspension of any certificate.
- (c) Suspension of participation privileges.
- (d) Adoption of more stringent rules or regulations pertaining to the operation of certified farmers' markets

In all cases, the appeal must be submitted to the director in writing within 30 days of the date the action or decision was made. The director's proceeding shall, insofar as practicable, comply with the provisions of the Administrative Procedure Act (Government Code, Section 11500, et seq.), except that a department hearing officer may be used.

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5 and 58104, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Repealer with new undesignated introductory paragraph, subsections (a)-(d), and undesignated final paragraph and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.12. Emergency Declaration.

(a) The director may, on an as needed, case by case basis, waive or modify specific restrictions within this Article on the direct marketing of agricultural products, including, but not limited to, restrictions or limitations on production acreage

and commodities, as well as certification requirements, if a declared plant, pest or animal quarantine, a declared natural disaster or a declared catastrophic emergency interferes with the normal operative effect of the rules.

(b) Any waivers or modifications shall be consistent with any quarantine, and the response to any natural disaster or catastrophic emergency.

(c) Prior to the utilization of any waivers or modifications, certified producers and certified farmers' markets shall enter into compliance agreements with California Department of Agriculture through the county agricultural commissioner in the county in which their certificates have been issued.

NOTE: Authority cited: Sections 407, 47000, 47001, 47002, 47003, 47004, 47005, 47005.1 and 47020, Food and Agricultural Code. Reference: Sections 47000, 47001, 47002, 47003, 47022, 47022.3 and 47022.6, Food and Agricultural Code.

HISTORY

1. New section filed 12-24-2002 as an emergency; operative 12-24-2002 (Register 2002, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-23-2003 or emergency language will be repealed by operation of law on the following day.